

Town Council Special Meeting Minutes February 13, 2012

Roll Call

Councilors Chase, Payne, Rodden, Varney and Pierce were present and answering roll call.

Councilor Armitage arrived late.

Councilors Orestis was absent.

Item 1 Public Hearing regarding equitable boating access to Highland Lake and cold water fish species stocking policies of the Maine Department of Inland Fish and Wildlife (MDIFW).

Town Manager Nathan Poore explained that early last summer the MDIFW sent a letter to the Town explaining their policy around fish stocking and management of water bodies that do not have equitable boating access. He has met with Highland Lake property owners and representatives of the MDIFW. There was no homeowner support for an expanded boat launch, even with the loss of the cold water fish stocking program.

Francis Brautigam of MDIFW presented details of the proposal. His department is interested in partnering with the Department of Conservation (DOC) to enhance the existing DOC boat launch to accommodate boats that are brought in on trailers in an effort to provide access that is consistent with the private access that already exists on Highland Lake. They proposed to limit the expansion of the boat launch to less than 10 parking spaces. For comparison, he explained that they reviewed 95 different boat launches in Southern Maine, both state and municipal, and if this boat launch expansion was based on the average number of parking spaces per acre at those launches, it would have 13-14 spaces. Highland is a relatively large lake and supports a shorefront resident population of about 260 properties. Based on the number of parking spaces planned, he estimated that this project would result in a 4% increase in use of the lake. Their goal is not to bring in large boats, but to meet the need of the anglers to bring in trailered boats that are 16-18'. They are willing to entertain design options that will discourage larger boats. They are aware of the wading bird/waterfowl habitat; they have discussed this and incorporated design features to protect the habitat. The launch is near the outlet, the best possible place to reduce the risk of milfoil and other invasive species. He understood the concerns regarding water quality in the shallow stretch from the launch site to the rest of the lake. Over time and with repeated use, a channel will be created by the traffic and the sedimentation will decrease. Because the launch is near the outlet, any phosphorus that is re-suspended due to the sediment being churned up will be flushed down there and not redistributed into the lake. Within 250 feet of the launch, the water becomes 5 feet deep. The overall lake is deep; depth generally varies between 20 and 40 feet deep. The biggest threat to water quality is phosphorus runoff from adjacent properties, not water use. The MDIFW is not going to propose a project that would have significant adverse impacts on wildlife; that would be counter to their mission. There are a number of benefits to this project: providing a single point of access for emergency personnel doing search and rescue as well as warden services responding to complaints; allowing MDIFW to continue to monitor the water body; and reducing the need for private boat launches, which may reduce some of the nonpoint source pollution on the lake.

Councilor Rodden asked for clarification; she thought there was public boat access.

Mr. Brautigam said there is a car-top public boat launch for canoes. In response to Councilor Varney, he explained that the Wardens' boats are 16' or 20' in length with a 40-75 engine.

Councilor Payne asked if this project was legislative or by public rule.

Mr. Brautigam said it was part of the MDIFW's mission to enhance public access to public waters. He was not sure how it was initiated.

Chair Pierce asked what the effect on the lake's health would be if they stopped stocking it.

Mr. Brautigam said if they discontinued stocking, there would be no more cold water fish. He thought there would be some ecological changes; those fish are feeding on forage fish that warm water fish also feel on.

Councilor Varney asked if trout and salmon would come up the water way and breed.

Mr. Brautigam said the fish way isn't really designed for trout; maybe a few trout might make it up to the lake, but not in numbers sufficient to support a population. Highland Lake has some adult habitat, but it does not have the spawning and nursery habitat to support a self-sustaining trout population, which is why they stock many lakes in this area of the state, which includes everything South and West of the Androscoggin.

Councilor Payne asked about private citizens going about their own fish stocking program.

Mr. Brautigam explained that the MDIFW's policy on private fish stocking would be the same; they would require equitable public access.

Chair Pierce opened the public hearing.

Julie Motherwell of Lowell Farm Rd. represented 10 of the 14 households on Low Farm Rd. She has lived here for 30 years. The State shares a right of way on Lowell Farm Rd. and contributes a small portion to the maintenance and upkeep of the road, which is maintained by a Road Association. The property owners have done a lot of work to maintain the road, as well as the road to the public boat launch, to prevent erosion. She was concerned that expanding the boat launch would impact both water quality and habitat.

Stu Miller of Lakeside Drive is the president of the Winslow Commons Homeowner Association and spoke on their behalf. The Association is adverse to the idea of increasing the parking area at the boat launch. Their Board of Directors is unanimous that this is not good for the lake, or the people who live on the lake.

John MacKinnon of Haven Rd. in Windham lives on the West side of the lake and opposed the expansion of the boat launch. He spoke about the milfoil invasion on Little Sebago Lake and how much it has cost. He asked if Falmouth and its taxpayers were willing to add milfoil management to their annual budget in exchange for stocking non-native fish.

Bob Simons of Pride Farm Rd. said the current boat launch was installed to provide fair and equitable access. He was concerned that the required provision for access would keep escalating.

Bill Flahive of Lowell Farm Rd. said there is public access now. Access for bigger boats will interfere with the current use and impact wildlife. He felt it has been working well for years, and wondered why it has to change now. He didn't think Mr. Brautigam was correct in his assertion that sediment and phosphorus stirred up by traffic in the shallow water would wash over the dam. He was concerned with enforcement; there are signs up there now, and they don't work.

Bill Bennett of Lowell Farm Rd. has fished the lake for 22 years. They stock 680 fish, which are caught by ice fishing, not by boat fishing in the summer. He was concerned about activities at the boat launch requiring police presence. He was concerned about northern pike.

Mike Fasulo of Sunset Rd. represented the Duck Pond Corporation, a group of 16 households; they are against the expansion of the boat launch. He pointed out that anyone can come and fish Highland Lake;

they oppose a launch that allows trailers to enter the lake. Most milfoil is brought in on trailers. They would rather stop the fish stocking than allow the boat launch.

Ray White of Highland Shore Rd. in Windham, represented the Highland Shore Association, a group of 24 households; they oppose the boat launch. In 1989, when the Highland Lake Association was started, the lake was on the endangered list. Due to their efforts, the lake was removed from the endangered list and they want to keep it that way.

Billy Goodwin of Lowell Farm Rd. said it is common for things to get stuck on the boat launch road. He spoke about the efforts of the residents to keep the boat launch road clean. He was concerned that, once the 10 parking spaces are full, people would park along the side of the road and block driveways, mailboxes, and emergency access.

Jim Whiting of Pinehurst Lane said he has access to the Lake by way of a camp in Windham. He rows on the lake and stated that it is both perfectly sized and has the flat water needed for rowing and kayaking. There is a growing community of kayakers that use the lake that would be affected by the boat launch. He opposed the boat launch.

Tom Bannen is a resident of Hideaway Lane and spoke on behalf of the Highland Lake Association (HLA). He is a cold water fisherman and has fished the lake since the 1970's. He has been a water quality monitor since 1998. The HLA thanked the MDIFW and DOC for the choice to continue the fish stocking program. He pointed out that most of the fishing done for the two species they stock is done during the winter through the ice and doesn't require a boat launch. The HLA felt the risks of the boat launch outweigh the benefits of the fish stocking program. Brown trout are difficult to catch and not native; landlocked salmon, while native to the state, have a high mortality rate in Highland Lake because it is too warm and shallow. Risks to the lake from expansion of the boat launch include: introduction of invasive plants and fish; lack of state funds to properly maintain the boat launch; increased shoreline erosion; increased risks of motorized vehicles driving onto the ice at the boat launch and breaking through; location of the launch site in a shallow area of the lake; increased trash and litter at the launch site; increase in crime, partying and poor behavior at the launch parking site; elevated soil erosion at Lowell Farm Rd.; the intended launch design would not be conducive to larger boats launching, but this would not prevent large boat owners from trying, leading to jackknifed trailers and damage to the launch; number of parking spaces proposed would be insufficient for the number of people who would want to use the site, leading to improper parking. The HLA opposed the boat launch.

Karen Farber of Foreside Rd. felt it was a choice of trade-offs. She thought it was an easier mistake to correct if they end the fish stocking program and then change their minds in a couple years, rather than the other way around. She thought the boat launch expansion was a risky proposition.

Chair Pierce closed the public hearing.

Councilor Payne asked about the hand carry launch serving as equitable access.

Mr. Brautigam said in the 1970's MDIFW and DOC determined that the launch was acceptable. Policies are much different today; there is a lot more use and more high-power boats.

Councilor Chase pointed out that Highland Lake is actually a pond; it is very fragile. He was not in support of an expansion of the boat launch. Councilor Varney disclosed that she owns a camp on Highland Lake and is a member of the Highland Lake Association. She couldn't see a reason to add more boats to the lake. The fishing is done from small boats, not large ones. She was against the boat launch. Councilors Payne and Rodden were opposed to the boat launch. Councilor Rodden felt there was public access; Councilor Payne wondered if the Town could approach the MDIFW and ask them to continue the stocking program. Councilor Armitage said he fishes Little Sebago at a family camp, and has noticed a deterioration of the lake that he felt coincided with the installation of a larger boat ramp. He didn't think

the benefit of stocking outweighs the risks of a larger launch. Chair Pierce was not in favor of an expanded boat launch. She thought they should consider the use of the lake by people other than just fishermen.

**Item 2 Public Hearing on a zoning amendment to address the allowance of
Roadside Stands in residential districts.**

Chair Pierce opened the public hearing. There was no public comment.

An order was scheduled for February 27.

**Item 3 Zoning amendment introduction to address changes to the language
regulating home occupations.**

Community Development Director Amanda Stearns discussed the proposed amendment. Staff have had several instances where a permit for a home occupation was denied because the proposed use was not one that was “customarily conducted” in the home. The current language was written in 1983. The proposed ordinance would permit any occupation that meets the performance standards included in its language. She discussed when occupations would be permitted by right, and which would require an approval by the Board of Zoning Appeals.

The Council discussed some wording changes to the proposed amendment. Staff will work on the language. A public hearing was scheduled for March 12.

Item 4 Zoning amendment introduction for map changes for BP and RA.

Chair Pierce explained that staff discovered that certain residential areas are partially zoned BP and have been treated by staff and the property owners as RA. This amendment would correct the map to reflect the actual use and treatment of certain lots, removing the current nonconformities of use, lot size and other dimensional requirements. The conflict was created in 1971 by an approved residential subdivision in the then Commercial District. A zoning map amendment to rezone the subdivision was discussed but not subsequently approved by the Council at the time.

Ms. Stearns explained that the discrepancy was discovered in the course of researching another zoning inquiry. These lots are developed as residential lots and meet all the requirements of the RA district. If they remain zoned as BP they would be non-conforming lots, uses and structures.

A public hearing was scheduled for March 12.

**Item 5 Update on Town-OceanView Leadership Team process for completion of
Purchase and Sale requirements for the Plummer-Motz and Lunt property.**

Chair Pierce said Council leadership and Town staff met with representatives from OceanView to discuss timing. Mr. Poore wanted to verify that the rest of the Council was comfortable with Chair Pierce and Councilor Varney participating in these work meetings as part of the process.

Councilor Rodden wondered about public participation in the process, especially in relation to the Village Green.

Mr. Poore thought they could allow space for the public to attend these work meetings and listen. They are not at the level for public participation; he felt public input should come later at the Council level.

Chair Pierce observed that nothing prevents residents from contacting Councilors directly whenever they want.

Item 6 Update on Community Programs programming at Mason-Motz and future programming during transition while the Town Council determines the long-term use of this building.

Councilor Rodden asked which rooms they are using right now.

Community Programs Director Lucky D'Ascanio explained that they are using the Mason Gymnasium, are renting two of the classrooms and a band practices in the music room. Moving forward, staff have organized the Motz wing with conference tables in some rooms to provide meeting space, two rooms are set up for adult classes, and the library in the Plummer school is being used for Martial arts. The Falmouth Memorial Library is considering using the computer room in the Plummer building to store some books, as well as running their book fair. Staff has completed their inventory of the Plummer building, with an inventory of the Lunt school to follow. Furniture left in the Mason building will be used by Community Programs. No rooms have been dedicated for particular purposes yet.

Councilor Varney wondered how many of these are new programs, as opposed to those that have moved here from other locations.

Ms. D'Ascanio said many are new programs, with more to come. They are excited to have the daytime programming space available. At Councilor Rodden's questions, she said they have no plans to move the Community Programs office to the building at this time. They have a punch list of work they would like to do to the building, such as painting.

Item 7 Update on the Land and Water Conservation Fund "Conversion" process at Plummer-Motz and Lunt School property.

Long-range Planning Director Theo Holtwijk explained that the Land and Water Conservation Fund, a federal program, has provided grants focused on outdoor recreation improvements for several decades. In 1981, Falmouth received a grant to make improvements at the Plummer/Motz site which included a basketball court and walking trails. The grant includes a requirement that the site cannot be changed in such a way as to affect those recreational improvements. This includes both the improvements themselves as well as the property on which they sit, indicated by a boundary map. At Plummer/Motz that boundary was drawn around the entire 21.5 acres. The school has made changes since 1981 that were allowed by the Federal government, but the sale of property to a private landowner triggers a requirement to deal with the restrictions, which are in perpetuity. Staff has proposed different suggestions to the National Park Service, including modifications to the existing site or recreational upgrades at Huston Park, but those suggestions have been turned down. The only option available is to convert the restriction to another Town-owned piece of land. It can either be a property that is currently owned by the Town or private property purchased by the Town, but it must not be currently used or dedicated to outdoor recreational use. They had originally planned to use a portion of Community Park, but after a few months it was deemed an ineligible site. Conversion is not a matter of moving the recreational improvements to another site, or making an improvement equal to the amount of grant money received in 1981 with perhaps some interest added, but is based on the appraised value of the total site minus the school buildings. While the report from the appraiser is not yet available, staff estimates this value at \$1.25 million or so. Therefore, they need to find properties, either Town owned or privately owned, that are appraised at an amount equal to or greater than that.

Councilor Rodden asked about a note that the replacement property must be “reasonably equivalent in usefulness and location”. She asked what the location piece means.

Mr. Holtwijk said they believe that any property in Falmouth will qualify. This is a lengthy process; it is expected to take about a year.

Councilor Payne expressed his frustration with the process and the requirements of the grant. Councilors Armitage and Rodden spoke about approaching either the Governor or Senators Snowe or Collins. Mr. Poore pointed out that they are dealing with a tight timeline; being creative and asking questions may cause a problem with the timeline. Political pressure, if it doesn’t work, may lead to the proposal being placed at the end of the list. They will explore political options while proceeding along the traditional path.

Item 8 Order to go into Executive Session pursuant to the Laws of Maine to discuss negotiation parameters associated with the Teamsters Local 340 and Maine Association of Police contract renewal, pursuant 1 M.R.S.A. § 405 (6) (D).

Item 9 Order to go into Executive Session pursuant to the Laws of Maine to discuss the possible acquisition of land, pursuant 1 M.R.S.A. § 405 (6) (C).

Councilor Armitage moved to enter executive session; Councilor Varney seconded. Motion carried 7-0.

The Council did not return from executive session.

Adjourn

Meeting adjourned.

Respectfully submitted,

Melissa Tryon
Recording Secretary